

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A. L. BOWLING-STOKES,
Minor.

UNPUBLISHED
December 19, 2013

No. 316681
Kent Circuit Court
Family Division
LC No. 11-051194-NA

Before: WHITBECK, P.J., and HOEKSTRA and GLEICHER, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist) and MCL 712A.19b(3)(g) (failure to provide proper care and custody). Because we conclude that the trial court did not clearly err by finding that termination was in the best interests of the child, we affirm.

The Department of Human Services (DHS) petitioned for removal of the minor child from his mother's residence in April 2011. Respondent father was incarcerated in a federal prison at the time of the removal and remained incarcerated throughout the duration of the proceedings. DHS prepared a parent-agency treatment plan for respondent father and respondent father agreed to complete homework and correspond with DHS through the mail. Respondent father agreed to work on decision-making, intellectual capacity, mental and emotional health, and agreed to learn about the minor child's characteristics with regard to health, development, and behavior. Although respondent father initially completed his homework assignments, his answers often lacked insight and, by the time the petition to terminate his parental rights was filed, respondent father failed to complete over half of the required homework. DHS attempted to pursue relative placement, but the efforts were unsuccessful. Accordingly, DHS petitioned for termination of respondent father's parental rights in January 2013. The trial court held a hearing and terminated respondent father's parental rights in May 2013.

On appeal, respondent father does not challenge the statutory grounds for termination. Accordingly, this Court presumes that the trial court did not clearly err by finding that the unchallenged statutory grounds were established by clear and convincing evidence. *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part on other grounds *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000).

Respondent father's only argument on appeal is that the trial court's decision should be overturned because there was insufficient evidence that termination of his parental rights was in

the child's best interest. Respondent father argues that he did as good a job on his treatment plan as he could while in prison, his release date was imminent, and he loved the minor child. Therefore, because he could have resumed parenting in the near future, it was not in the child's best interest for the trial court to terminate his parental rights.

We find that the trial court did not clearly err by finding that termination of respondent's parental rights was in the child's best interest. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357. The record in this case shows that there was no bond between respondent father and the child. Respondent father was incarcerated shortly after the child's birth and they had no physical contact and very minimal other contact since that time. The child was doing well in his current placement, had services in place, and had been in the placement for a significant period of time. The minor child was in foster care for over two thirds of his life, had developmental delays, behavioral problems, and sensory issues, and needed stability and permanence to cope with those issues. Moreover, respondent father testified that he had about three or four hours of free time per day to work on his homework assignments, but he completed less than half. If respondent father could not complete homework assignments during his free time in prison, it follows that he has not shown that he could be consistent with the child's appointments, services, and care upon his release. In sum, respondent father did not demonstrate the kind of commitment to understanding the child's needs that would be required to care for the child.

Further, while respondent father asserts that his release date was "imminent," evidence of record indicated that he had a "detainer" that could result in additional prison time and no suitable relative placement was available. Additionally, respondent father would need time to establish a job and a residence, build a relationship with the minor child, and demonstrate a commitment to services upon his release. Although respondent father testified that he loved the child, and was hopeful that he would be able successfully reenter society, it is clear that he could not provide the special care or permanency that the child needed at any time in the near future. Accordingly, the trial court did not clearly err by finding that termination of respondent father's parental rights was in the child's best interest. See *In re Smith*, 291 Mich App 621, 624; 805 NW2d 234 (2011) ("given the absence of any bond between respondent and the child, the trial court did not clearly err by finding that termination of respondent's parental rights was in the child's best interests."); MCL 712A.19b(5).

Affirmed.

/s/ William C. Whitbeck
/s/ Joel P. Hoekstra
/s/ Elizabeth L. Gleicher